

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 51
Appropriations

(Delegate Korman)

Budget and Taxation

Department of Transportation - Grant Anticipation Revenue Vehicle Bonds and
Grant Anticipation Notes (State and Federal Transportation Funding Act)

This bill expands the authority of the Maryland Department of Transportation (MDOT) to issue additional bonds backed by future federal aid for specified projects and under specified conditions. MDOT may issue such bonds as long as the aggregate outstanding and unpaid principal amount of debt issued does not exceed \$1.0 billion as of June 30 of any year. The bill makes other changes related to the issuance of such bonds. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The expanded authorization to issue bonds backed by future federal aid does not necessarily have an immediate effect on Transportation Trust Fund (TTF) finances; however, the bill grants MDOT additional flexibility to fund its capital program in future years. To the extent additional bonds backed by future federal aid are issued, additional funding is available for the authorized projects at the time the bonds are issued; these bonds are then repaid from future federal aid.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill modifies existing provisions relating to MDOT's issuance of bonds backed by future federal aid (typically known as Grant Anticipation Revenue Vehicle (GARVEE) bonds when backed by future federal highway aid and Grant Anticipation Notes when backed by future federal transit aid). Specifically, MDOT may

issue bonds backed by future federal aid as long as the aggregate outstanding and unpaid principal amount of debt issued does not exceed \$1.0 billion *as of June 30 of any year*. However, proceeds of these bonds may only be used for:

- designing and constructing the Baltimore Red Line;
- procuring zero-emission buses (in accordance with existing provisions relating to the conversion of the State transit bus fleet to zero-emission buses) and constructing related infrastructure, including bus maintenance facilities;
- developing and constructing the Southern Maryland Rapid Transit Corridor;
- designing and constructing improvements to the Maryland Route 2 and Route 4 corridor, including the Thomas Johnson Bridge;
- designing and constructing improvements to the Maryland Route 90 corridor; or
- designing and constructing improvements to the Interstate 81 corridor.

Existing statutory requirements relating to the issuance of debt backed by future federal aid – and transportation projects in general – generally apply to debt issued and projects funded under the bill, with the following exceptions: (1) the bill repeals the requirement that MDOT pledge TTF revenues as a secondary source of funds to pay the principal of and interest on the bonds issued should future federal aid be insufficient – and, as a result, the bill also repeals the requirement that the Capital Debt Affordability Committee (CDAC) include such debt within its review of State “tax supported debt”; and (2) the bill specifies that the date of maturity on the bonds may not be later than 15 years after the date of bond issuance.

Pursuant to existing statutory requirements, capital projects funded under the bill must be included in the Consolidated Transportation Program (CTP), or certain notification requirements must be met before those projects are funded. Also, prior to the issuance of bonds, MDOT must (1) provide notification to the Legislative Policy Committee 45 days prior to the issuance; (2) receive approval for the issuance by the Board of Public Works (BPW); and (3) receive approval from the Secretary of Transportation in an approving resolution that establishes the parameters of the bond sale.

Current Law:

Transportation Trust Fund Forecast

On submission of the annual budget bill to the General Assembly, MDOT must also submit copies of the approved CTP, the supporting financial forecast, and, as required by Chapters 27 and 563 of 2022, specified estimated project costs for any project for which planning funds were added to the budget by the General Assembly during the previous three legislative sessions.

The financial forecast supporting the CTP must include specified components, including (1) a schedule of operating expenses for each specific modal administration; (2) a schedule of revenues; and (3) a summary schedule for TTF that includes the opening and closing fund balance, revenues, transfers, bond sales, bond premiums, any other revenues, expenditures for debt service, operating expenses, amounts available for capital expenses, bond interest rates, bond coverage ratios, total bonds outstanding, federal capital aid, and the total amount for the Transportation Capital Program.

For each of the required components, the financial forecast must include actual information for the last full fiscal year and forecasts for the current fiscal year, the fiscal year for the proposed budget, and the next four subsequent fiscal years. In total, the forecast includes information for six fiscal years.

Bonds Backed by Future Federal Aid

Chapters 471 and 472 of 2005 authorized MDOT and the Maryland Transportation Authority (MDTA) to issue a maximum of \$750 million in bonds backed by future federal aid. Under this authority, \$750 million in GARVEE bonds were issued in 2007 and 2008 as part of the financing plan for the Intercounty Connector; these bonds have since been fully paid off. Due to the \$750 million limit, MDOT has not been able to finance any other transportation projects using bonds backed by future federal aid.

Capital Debt Affordability Committee and Tax-Supported Debt

CDAC is charged with reviewing on a continuing basis the size and condition of the State tax supported debt as well as other debt of State units, as specified. By October 20 each year, the committee must submit a report to the Governor and the General Assembly of its estimate of the total amount of new State debt that prudently may be authorized for the next fiscal year. In making its estimate, CDAC is required to consider various factors, including (1) the amount of State bonds that, during the next fiscal year will be outstanding and will be authorized but unissued and (2) the criteria that recognized bond rating agencies use to judge the quality of issues of State bonds. CDAC's estimate is advisory and does not bind the General Assembly, BPW, or the Governor.

“Tax supported debt” means (1) State debt and (2) other forms of debt, including State agency capital leases supported in whole or part by State tax revenues and debt of MDOT, the Maryland Stadium Authority, and other units of State government which, in CDAC's opinion, are supported directly or indirectly by State tax revenues. “Tax supported debt” includes debt issued by MDOT under Title 3, Subtitle 6 of the Transportation Article or by MDTA under Title 4, Subtitle 3 of the Transportation Article that is secured by a pledge of future federal aid from any source.

State Fiscal Effect: As noted above, there is not necessarily an immediate effect on TTF revenues and expenditures from the expanded authorization to issue bonds backed by future federal aid; however, the option to issue these bonds grants MDOT additional flexibility to fund its capital program (for certain projects) in future years. To the extent additional bonds backed by future federal aid are issued, additional funding is available for the authorized projects at the time the bonds are issued; these bonds are then repaid from future federal aid.

The bill repeals the requirement that TTF provide a secondary pledge to pay the principal and interest on the bonds if future federal aid is insufficient (although the option to do so is still available). As a result, the bill likewise alters the definition of “tax supported debt” under provisions governing CDAC to exclude debt issued by MDOT backed by future federal aid. The Department of Legislative Services advises that the secondary pledge of TTF revenues was originally added to statute when the concept of bonds backed by federal aid was new and the bond markets were wary; however, in the ensuing years, bond markets have become comfortable with the concept. Consequently, MDOT is unlikely to need to issue the bonds with a secondary pledge of TTF revenues to ensure better credit ratings and interest rates. Nevertheless, if any future bonds provide a secondary pledge of TTF revenues, the bonds would be considered tax-supported debt by CDAC, and the issuance of the bonds would impact the State’s overall debt capacity.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 24 (Senator McCray) - Budget and Taxation.

Information Source(s): Maryland Department of Transportation; Maryland State Treasurer’s Office; Federal Highway Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2023
rh/lgc Third Reader - March 18, 2023
Revised - Amendment(s) - March 18, 2023
Revised - Clarification - March 18, 2023

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